

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

UNITED STATES OF AMERICA,

Plaintiff,

v.

Civil Action No.

AIR PRODUCTS AND CHEMICALS, INC.,
as successor in interest to Escambia Chemical
Corporation;
AMERICAN GILSONITE COMPANY;
ATLANTIC OLDSMOBILE, LTD.;
BARRY-WEHMLER COMPANIES, INC.,
and its subsidiaries UNITED CONTAINER
ACQUISITION CORP., MARQUIP LLC and
THE WARD MACHINERY COMPANY
for United Container Machinery, Inc.;
BIC CORPORATION, on behalf of itself and
as successor in interest to Sheaffer Eaton, Inc.;
Sheaffer, Inc., Sheaffer Pen Corporation; Sheaffer
Manufacturing Co., LLC; BIC USA Inc.; Sheaffer
Holdings (Delaware) Inc.; Sheaffer International
(Guernsey) Limited; and Sheaffer Holdings
(Guernsey) Limited;
CAMDEL METALS CORPORATION;
CAN CORPORATION OF AMERICA;
CASTLE FORD;
C J R CHEMICAL COMPANY;
CONSOLIDATED CONTAINER COMPANY LLC,
for itself and as an alleged successor in interest to
Continental Plastics and RXI Plastics, Inc.;
DICK STEVENS CHEVROLET INC.;
DOWNTOWN GARAGE INC.;
ENVIRONMENTAL ENTERPRISES, INC.;
FALSTROM COMPANY;
FIDELITY ENGINEERING CORP.
(Sparks, Baltimore County MD);
FLINT INK CORPORATION;
FMC CORPORATION;
HALSTEAD INDUSTRIES, INC.;

COMPLAINT

HANDY & HARMAN TUBE CO., INC.;
ICI AMERICAS INC.;
INTERNATIONAL PAPER;
KLEIN TOOLS, INC., as successor in interest
to Vaco Products, Inc.;
KRAFT FOODS GLOBAL, INC., as successor
in interest to General Foods;
L.D. CAULK, a division of DENTSPLY International Inc.;
MALCOLM KONNER CHEVROLET CORP.;
MASCO CORPORATION, as indemnitor for Compac
Industries, Inc.;
MUELLER COPPER TUBE PRODUCTS, INC.
(f/k/a Halstead Industries, Inc.);
NATIONAL PRINT GROUP, INC. for Heritage
National;
NORRIS INDUSTRIES, INC.;
OCHOA INDUSTRIAL SALES CORPORATION;
OFFRAY SPECIALTY NARROW FABRICS, INC.,
as successor in interest to Maryland Ribbon;
OMEGA PROTEIN, INC., as successor in interest to
Haynie Products, Inc. and Zapata Haynie Corporation ;
PARKER HANNIFIN CORPORATION;
PFR, Inc., f/k/a Perma-Flex Rollers, Inc.;
P.M.T. & ASSOCIATES, INC. (Baltimore City, MD);
PRECISION PRODUCTS GROUP, INC.;
QUALITY CARRIERS, INC., on behalf of Montgomery
Tank Lines, Inc.;
QUATTRO AUTO BODY, INC.
(Bethesda, Montgomery County, MD);
RAM INDUSTRIES, LLC;
RAM MOTORS & CONTROLS, INC.;
ROTOREX COMPANY, INC. ;
RUST-OLEUM CORPORATION;
SAINT GOBAIN CORPORATION, for Norwood
Industries, Inc.;
SYMS CORP. for itself and as alleged successor in interest
to Stanley Blacker, Inc.;
TECHNICAL PROCESSING INC.;
TRANSTECH INDUSTRIES, INC.;
UNITED TECHNOLOGIES CORPORATION for
BASF Corporation as successor to Inmont Corporation;

VAN WATERS & ROGERS, INC., for Univar USA, Inc.;
WOOD-MODE INCORPORATED, as successor in interest
to Wood-Metal Industries, Inc.,

DEFENDANTS.

(See Attachment 1 for Addresses of Defendants.)

COMPLAINT

The United States of America, by authority of the Attorney General of the United States and through the undersigned attorneys, acting at the request of the Administrator of the United States Environmental Protection Agency ("U.S. EPA"), files this complaint and alleges as follows:

STATEMENT OF THE CASE

1. This is a civil action for the recovery of costs brought pursuant to Section 107 of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. § 9607, as amended by the Superfund Amendments and Reauthorization Act of 1986, 100 Stat. 1613 (1986) ("CERCLA"). The United States seeks to recover costs it has incurred in connection with the facility known as the Spectron, Inc. Superfund Site ("Site") located near Elkton, Maryland. In addition, the United States seeks a judgment, pursuant to CERCLA Section 113(g)(2), 42 U.S.C. § 9613(g)(2), declaring that each Defendant is liable for any further response costs that the United States may incur as a result of releases or threatened releases of hazardous substances from the Site.

JURISDICTION AND VENUE

2. This Court has jurisdiction over the subject matter of this action and the parties hereto,

pursuant to CERCLA Section 113(b), 42 U.S.C. § 9613(b), and 28 U.S.C. §§ 1331 and 1345.

3. Venue is proper in this district pursuant to CERCLA Section 113(b), 42 U.S.C. § 9613(b), and 28 U.S.C. § 1391(b) and (c), because the claims arose and the threatened and actual releases of hazardous substances occurred in this district.

DEFENDANTS

4. Each of the Defendants is a "person" within the meaning of CERCLA Section 101(21), 42 U.S.C. § 9601(21).

5. Each of the Defendants conducted business in the State of Maryland and/or by contract, agreement or otherwise, arranged for disposal or treatment, or arranged with a transporter for transport for disposal or treatment, of hazardous substances owned or possessed by each such Defendant at the Site within the meaning of CERCLA Section 107(a)(3), 42 U.S.C. § 9607(a)(3).

GENERAL ALLEGATIONS

6. The Site consists of approximately eight (8) acres located just outside Elkton, Maryland. From approximately 1961 to 1988 the site operated as a solvent recycling facility. The facility reclaimed, reprocessed and recycled industrial wastes consisting primarily of halogenated organic solvents, such as methylene chloride, tetrachloroethylene, and trichloroethylene, and volatile organic aromatics, such as benzene, toluene, and xylene. At least one lagoon at the Site was used to dispose of process wastes generated at the facility.

7. When recycling operations ceased in August 1988, many hazardous substances that had been received, processed, generated and used in its operations were abandoned at the Site. Contamination at the Site consists of primarily chlorinated solvents which have been detected in:

groundwater seeps entering Little Elk Creek, which bisects the Site; surface water and sediments of Little Elk Creek; groundwater beneath and down-gradient of the Site; and soil on the Site.

Other contaminants found in shallow groundwater monitoring wells at the Site include: volatile organic compounds, semi-volatile organic compounds and some heavy metals.

8. Little Elk Creek is designated by the state for water contact recreation, protection of aquatic life and wildlife, and fishing. Several residents residing immediately adjacent to the Site and others living nearby use private wells for drinking water. Site-related contaminants have been detected in some of these wells.

9. In April 1989, EPA conducted an emergency assessment of the conditions at the Site. EPA observed approximately 1,300 drums and 62 tanks containing hazardous Substances on-site.

10. In June 1989, the EPA Region III Regional Administrator approved the expenditure of funds pursuant to Section 104 of CERCLA, 42 U.S.C. § 9604, to address the releases and threat of releases of hazardous substances at the Site. EPA's actions included over-packing drums, decanting leaking drums, collecting samples and establishing 24-hour security.

11. On August 21, 1989, EPA entered into an Administrative Order by Consent (Docket No. III-89-23-DC), pursuant to Section 106 of CERCLA, 42 U.S.C. § 9606, with a group of PRPs). This Order required the continuation of emergency response actions for the removal and disposal of the abandoned material identified at the Site, particularly the over-packed drums and tanks at the Site.

12. EPA concurrently entered a second Administrative Order by Consent (Docket No. III-89-29-DC) with PRPs for reimbursement of response costs in the amount of \$674,139.66.

13. On February 1, 1990, EPA issued a Unilateral Administrative Order (Docket No. III-

91-11-DC) for access, pursuant to CERCLA Sections 104(e) and 106(a), 42 U.S.C. §§ 9604(e) and 9606(a), to Paul J. Mraz and Sally K. Mraz, owners of the Site.

14. On October 1, 1991, EPA entered into a subsequent Administrative Order by Consent (Docket No. III-91-40-DC) with a group of PRPs to develop a plan to abate, mitigate, and/or eliminate the seepage of hazardous substances into Little Elk Creek.

15. On May 20, 1996 EPA entered into an Administrative Order on Consent for Remedial Investigation/Feasibility Study ("RI/FS") (Docket No. III-96-15-DC), pursuant to CERCLA Sections 104 and 122, 42 U.S.C. §§ 9604 and 9622, with certain PRPs. The RI/FS, which is currently ongoing, will determine the nature and extent of contamination at the Site.

16. In August 2001, EPA offered the First Round De Minimis Settlement to approximately 900 de minimis-eligible PRPs. About 500 of those de minimis PRPs settled their liability at the Site during that First Round, which was finalized by the United States District Court for the District of Maryland in March 2003. United States v. ABB, Inc., Civil No. AMD 02-3858.

17. There have been "releases," within the meaning of CERCLA Section 101(22), 42 U.S.C. § 9601(22), or the threat of "releases" of hazardous substances into the environment from the Site at times relevant to this action.

18. The Site is a facility within the meaning of CERCLA Section 101(9), 42 U.S.C. § 9601(9).

19. Hazardous substances, within the meaning of CERCLA Section 101(14), 42 U.S.C. § 9601(14), have been disposed of at the Site.

CLAIM FOR RELIEF

20. Paragraphs 1-19 are realleged and incorporated herein by reference.

21. CERCLA Section 107(a)(3), 42 U.S.C. § 9607(a)(3), provides in pertinent part:

Notwithstanding any other provision or rule of law, and subject only to the defenses set forth in subsection (b) of this section-

* * * *

(3) any person who by contract, agreement, or otherwise arranged for disposal or treatment, or arranged with a transporter for transport for disposal or treatment, of hazardous substances owned or possessed by such person, by any other party or entity at any facility . . . owned or operated by another party or entity and containing such hazardous substances . . .

from which there is a release, or a threatened release which causes the incurrence of response costs, of a hazardous substance, shall be liable for--

(A) all costs of removal or remedial action incurred by the United States Government or a State or an Indian tribe not inconsistent with the national contingency plan[.]

22. The actions taken by the United States in connection with the Site constitute "response" actions within the meaning of CERCLA Section 101(25), 42 U.S.C. § 9601(25), in connection with which the United States has incurred costs.

23. The costs incurred by the United States in connection with the Site are not inconsistent with the National Contingency Plan, which was promulgated under CERCLA Section 105(a), 42 U.S.C. § 9605(a), and codified at 40 C.F.R. Part 300, et seq.

24. As a result of the releases or threatened releases of hazardous substances from the Site, the United States has incurred and will continue to incur response costs, including the costs of removal or remedial action as defined in Sections 101(23), (24) and (25) of CERCLA, 42 U.S.C. § 9601(23), (24) and (25), and as used in Section 107(a) of CERCLA, 42 U.S.C. § 9607(a).

25. The United States continues to incur response costs in connection with the Site. As of

December 20, 2000, U.S. EPA had incurred unreimbursed response costs in connection with the Site of approximately \$1,108,922.

26. Pursuant to CERCLA Section 107(a), 42 U.S.C. § 9607(a), Defendants are jointly and severally liable, with other liable parties, to the United States for all response costs incurred and to be incurred by the United States in connection with the Site, including enforcement costs and prejudgment interest on such costs.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, United States of America, respectfully requests that the Court:

1. Award the United States a judgment against the Defendants, jointly and severally, for all costs incurred by the United States in connection with the Site, including all enforcement costs and all costs in this action;
2. Award the United States a declaratory judgment that the Defendants will be jointly and severally liable, with other liable parties, for any further response costs that the United States may incur as a result of releases or threatened releases of hazardous substances from the Site; and
3. Grant any further relief the Court deems appropriate.

Respectfully submitted,

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ATTACHMENT 1
ADDRESSES OF DEFENDANTS
United States v. Air Products and Chemicals, Inc., et al.